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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

ROBERT S. TREFF

(Full Name)

PLAINTIFF

VS.

Dr. RICHARD GARDEN, Mexican Director,
Utah State Prison; DALE SCOTT, Board
of Corrections, (USP) Medical Admin. Director,
USP, KENNEDY B-35 Physician Assistant,
USP; JOSEPH WONG, Physician Assistant,
USP; DR. J. W. BROWN, DR. D. C. COOPER, DR. J. W. COOPER, DR. J. W. COOPER,
Physician Assistant, U.S.P., Dr. J. W. COOPER, DR. J. W. COOPER, DR. J. W. COOPER,
Julia & ISME DUE, #1-610 Employee, U.S.P.,
Paul Rossell, Certified Nurse Practitioner U.S.P., DR. SWITZER,
(rx) DR. J. W. COOPER, U.S.P., University of Utah
Medical Center
DEFENDANTS
Dr. Virginia & Corey, DR. COOPER, All defendants sued
individually and as a class and as a collective.

CIVIL RIGHTS COMPLAINT
(42 U.S.C §1983, §1985)

Judge Ted Stewart
DECK TYPE: Civil
DATE STAMP: 10/26/2004 @ 13:25:20
CASE NUMBER: 2:04CV00996 TS

A. JURISDICTION

1. Jurisdiction is proper in this court according to:

a. 42 U.S.C. §1983 *present state claim*
b. 42 U.S.C. §1985
c. Other (Please Specify) _____

2. NAME OF PLAINTIFF ROBERT S. TREFF
IS A CITIZEN OF THE STATE OF UTAH

PRESENT MAILING ADDRESS: P.O. Box 250
Draper, Utah 84020

Doctor

IS EMPLOYED AS Physician Assistant at USP.

(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES NO If your answer is "YES" briefly explain.

Defendant Weber is employed at the Utah State Prison by the Utah Department of Corrections, he is an employee of the State of Utah.

6. NAME OF FOURTH DEFENDANT Joseph Coombs
(If applicable)

IS A CITIZEN OF Salt Lake City, Utah
(city and State)

IS EMPLOYED AS Physician Assistant at USP.

(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES NO If your answer is "YES" briefly explain.

Defendant Andrew Coombs is employed at the Utah State Prison by the Utah Department of Corrections. He is an employee of the State of Utah.

(Use additional sheets of paper if necessary.)

See additional sheet.

B. NATURE OF CASE

1. Why are you bringing this case to court? Please explain the circumstances that led to the problem. He's worked for 3 years, through ~~attorneys~~'s medical appointments to have my pain alleviated once and for all.

Defendants (cont.)

7. Defendant CRAIG ALBRECHT is a citizen of Salt Lake City, Utah and employed as a Physician Assistant at the Utah State Prison (USP)
PAUL BASSON

8. Defendant ~~PAUL BASSON~~ is a citizen of Salt Lake City, Utah and employed as a physician assistant at the USP.
CCPNT

9. Defendant John and Jane Does #1-#10 are citizens of Salt Lake City, Utah and employed as employees of the Medical Department of the Utah State Prison.

10. Defendant Raymond Merrill is a citizen of Salt Lake City, Utah and employed as a physician assistant of the Medical Department of the Utah State Prison.

~~All above Defendants acted under color of state law because they were employed by the Utah Department of Corrections, a department of the state of Utah.~~

11. Bruce C. Swanson is a citizen of Gunnison, Utah and employed as a doctor at the Central Utah Correctional Facility (CUCF).

All ~~above~~ Defendants acted under color of state law because they were employed by the Utah Department of Corrections, a department of the state of Utah.

12. Dr. SKVODA (sic) is a citizen of Salt Lake City, Utah and employed as a doctor at the University of Utah. He is acting under color of state law as an employee of State of Utah public institution.

13. University of Utah is a medical facility within the state of Utah. It is a state of Utah public institution and must act under color of state law.

14. Defendant Virginia Grey is a citizen of Salt Lake City, Utah. She is employed as a Doctor by the University of Utah. As an employee of University of Utah she was acting under color of State law since the University of Utah is a Public institution of State of Utah.

C. CAUSE OF ACTION

1. I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary you may attach additional pages)

a. (1) Count I: CIVIL AND UNUSUAL PUNISHMENT
8th Amendment to U.S. Constitution
Federal Tax Law Utah Constitution Art I Sec 9

(2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing legal authority or arguments.)

Please see Attached paper

And documents

b. (1) Count II: 1st Amendment to U.S. Constitution
Relationship for seeking Redress through Government
Utah St. Const. Art I. Secs. 1, 3, 7

(2) Supporting Facts: Please see Attached paper

And documents

pm 1.

STATEMENT OF FACTS (99D-06-31170)

On 7-9-99 ~~After waiting~~ I FILED a level II grievance. I had paid for refills through that period but had not gotten my 2 more months' worth (7-89 and 8-99) of Proxigan and Acetophenetadol. Also the continual pain in my neck (degenerative disk) and accompanying headaches every day.

On Aug. + 18, 1999 I received the level II grievance back denying the remedies.

On Aug. 23, 1999 I filed the level III grievance stating AGAIN "my neck is in constant pain, my headache continuing... I should not have to pay AGAIN for refills that never came." Informed by medical staff that my neck was deemed a "chronic" health problem. Pursuant to information from another inmate who was also ~~to~~ had a "chronic" health problem as deemed by U.S.P. medical staff (Richard) I wrote to Dr. ^{Richard} Gordon and requested refunds for health care and medication claimed "chronic" regarding my neck and the coinciding corresponding headaches. He denied such. Doug Hansen, an inmate living in my section wrote me note on 8-24-99 verifying he had his ~~post~~ waitied because he was "chronic". On 9-27-99 I again was notified by Administrative Law Judge R. Parker Robinson of my level III grievance that he would review the info before rendering his decision. On 10-2-99 my HCR (Health Care Request form) at an additional \$4.00 was docketed and my account debited. I stated "Neck pain daily and continuous... stronger medication requested. Headaches - occurring quite often..."

Level II grievance response 990332274/m-09-17 stated that I had received medication refills for which I had paid for which I most certainly did NOT.

On 11-3-99 in great pain for the last 12 months, I submitted another HCR (as instructed) for "Bad headache - continue" ... "my neck is getting worse, movement causes pain and friction sounds. This has become a chronic situation." I wrote to Inmate Medical Issues in October of 1999. In January, 2000 I received their response.

On 1-25-00 I sent in HCR. It stated "Neck continues to chronically be in pain daily. It feels worse than before. More stiff, lower neck and temples now hurting as well." On or about 2-8-00 received letter Inmate Medical Issues. It stated "We have talked to the medical director. Let us know if your care improves." (emphasis added) "The policy their follow-up charges is the following: If the visit is initiated by the clinical staff you will not be charged. If the visit is initiated by you - there will be a charge. If you think you have been charged incorrectly, send a memo to the copay department. We will take the problem up chronic issues and the exorbitant cost to the inmate (especially if they can't work) to the D.O.C. and Governor's office."

On 1-31-2000 I was charged \$4.00 + 2.50 in prescriptions. On 2-14-2000 I was charged .50 for prescriptions. On 2-24-00 I received an Unsigned response to my letter regarding refill problems. I do not wish to be seen again (Again another \$4.00) for the continuing problem of neck and headache that at least 5 previous ^{medical} visits did not cure. I did request that I receive the refills I already paid for (above) via the ~~no~~ prescription. Filed grievance Level I on this matter 3-10-2000 #9908-34-686 PS. Note was sent to Dr. Combs. On 4-6-2000 received letter from Israel - Infirmary in response to my 3-31-2000 letter to Dr. Richard Gardner (Co-payment and Chronic care meds). She stated "I am sorry, but we cannot make exceptions - on our policy of chronic care meds and medical co-pays" (see Doug Hansen "chronic care" previous page). I was not asking for an exception in my letter to Defendant Gardner. I ~~asked~~ only to be treated ~~as~~ a "chronic" situation the same as inmate Doug Hansen and other inmates with similarly "chronic" situations. On 4-20-2000 submitted another HCR. It stated "acute pain continues, headache continue... Can I get stronger medication? Neck surgery? Longer prescription periods? Taken to VA Hospital?" Informer by PG Hyatt that "yes" I could have neck surgery, but he asked me to try some neck exercises first along with medication. He said neck surgery will take away pain, but would also decrease mobility. I told him I would at 2 hand, continue to follow medical instructions as long as it led to a cessation of the pain once and for all. I continued the medication, did the neck exercises. PG Hyatt confirmed that I have a chronic neck condition. I wrote the Disability Law Center on 5-20-2000 regarding the situation. On 7-19-2000 I wrote to Richard Gardner (Again) regarding the medical co-payment neck condition "chronic" and request for surgery on neck, MRI, CAT scan, complete full physical examination. On 7-27-00 I received the response from "Co-Pay Administrator". It indicated A new policy that "If you (an inmate) decide leaving a medical debt, it will be deducted IF you return to prison." Thus, similarly situated prisoner's are not being treated the same as I in regard to this policy, I have to pay for my medical bills, they do not if they leave and don't return to prison."

On 3-08-01 submitted another HCR (again for continuing neck ^{headache} problem) and now shoulder pain. It stated "Severe, constant pain in neck, shoulders, arms, head for 3 days in a row, now twice (3 days in a row), in the last 2 weeks."

"(continued headache); cannot do neck exercises without continued extreme pain." "Dizziness bouts. Lump in throat for the last week. Difficulty breathing at times ~~at night~~." ON 3-12-01 Defendant Russo saw me at Timpanogos. I explained neck problem and headache. Requested surgery for neck. He refused. He wrote "Im (inmate) c/o on BACK, Neck and shoulder pain that has been present for several months, Im (inmate) states HE HAS CONTINUED HA'S" (Headaches). "Abnormal musculoskeletal Exam. Im demonstrates decreased ROM AT THE NECK AND SHOULDERS. Im HAS PAIN TENDERNESS TO R/L SHOULDERS." (emphasis added) (ON 4-3-01 saw by Defendant TUBBS. He writes "Defensive D/c because of neck "chronic" (which charged \$4.00 for this repeat diagnosis) "Chronic DJD OF CS/C6" and a "Cervical Collar was given" ON 4-10-01 seen again by Defendant TUBBS who wrote "R SHOULDER Joint pain A/C Joint TENDERNESS... I encourage OTHERS WITH TENDINITIS MILD WILL NOT TREAT POLICY (WHAT IS ONCHONYCHITIS??). I requested surgery on Neck and shoulder. He stated to me "you ~~can~~ (one) can't have shoulder surgery." I asked "why not?" He said "Because you're not John Elway and you don't have a \$50,000,000 arm." I said "You are denying me surgery because I'm not John Elway or my arm is not important?" He said "that is not a life threatening situation." He then ordered a steroid injection for shoulder. ON 5-7-01 saw Defendant Escombs at Wasatch Infirmary. He writes has "NSAIDS". What does this mean? He wrote also "Joint pain. AC L Shoulder steriley prepped and injected w 1/2 cc Kenalog in Fanning motion and 1/2 cc Lidocain. Had good results, Encouraged to not overuse this shoulder and to RTC in 2-3 weeks if not better. Arthritis in Inflammation Musculoskeletal system (complaint L shoulder pain worse with sleeping on it and with some ROM, c/o popping." (emphasis added) Shoulders left T/C over AC Joint w/ pos cross arm test. ON 1-24-02 shipped to CCF. ON 2-4-2002 to Defendant Burnham. He wrote "multiple system complaints... Felt severe for "chronic" Neck pain and shoulder pain. Want x rays and surgery for Neck. This is "chronic" Just came down from Draper a few days ago." Defendant Burnham refused surgery to Neck and shoulder because "it's not within budget" and because "(I) you just came down here (CCF) recently". I asked "what does that have to do with it?" He said "inmate often try to get surgery and medical care they can't get up north, down here." Inmate Thomas Hermanin (sic) received surgery on his shoulder ~~at~~ via U.S.P. from CCF

at U. DC U medical center complaining of same medical shoulder problem as I. This was approved by Defendant Burnham, Ordinance Schipanabord. Inmate Hermann (sic) told me this directly in the vehicle back from CUCF to U.S.P. Inmate David Housholder in the same vehicle told me he had gotten surgery on his knees for an "arthritis condition." Defendant Burnham also stated that prescriptions from U.S.P. (in amt, type, and duration) would not be honored at CUCF and that the additional cost of reprocritption must be paid. Thus I paid for U.S.P. prescriptions not filled there. Also Defendant Burnham started prescriptions of Acetaminophen 325 mg. Start 2/4/2002 stop 5/5/2002.

DOCTORS & NURSES I never got results for such after the 3 February 2002. Yet I paid \$4.00 + .50 for such diagnosis and prescription, and denial of surgery again. I filed grievance against Dr. Burnham in CUCF and was denied surgery or neck and shoulders. I was told by SA Fitzgerald in CUCF that he would contact U.S.P. for "Committee Review" on my surgery request. It never occurred. On 4-11-02 I placed another HCR in regarding my "continual chronic" neck pain. Defendant Abbott saw me at OG II. He denied my medication, that Dr. Burnham had prescribed and I already had paid for. He denied my request for surgery on neck and shoulder. He stated to me "Dale Schipanabord has told me to tell you, you will not get surgery and if you don't like it you can file a grievance." A grievance # 990845022 had already been filed on these denials and the continual pain despite my compliance with all directed medical care. The level II response from Carl Jackson (the man who stated that Hitler was a Jew and I am a Jew) to submit yet another HCR (another \$3.00) to meet with yet another medical practitioner health care provider of U.S.P. who will do nothing to solve the problem once and for all.

On 8-2-02 I wrote to National Commission on Health Care. On 8-30-02 I wrote to the State of Utah Medical Director. The State of Utah Medical Director did not respond. I met with Defendant Gordon. He stated that he would authorize surgery on neck and shoulder, but only after I first had X-rays and had physical therapy on shoulder to see if along with the med, it took care of problem. X-rays were taken of neck. I attended all physical therapy with Jim Armstrong for the next several months. The pain relief was as usual only.

STATEMENT OF FACTS (cont.)

5 Medical Entry 2/3/03 in response to Yet another HCR (3rd ~~2nd~~)

"SHOULDER Joint pain, 71% OVER CORTICOLO PROCESS- Anterior...

L Side com (continues) will inject Again" (emphasis added)

(At this injection a female nurse told me that the "cortisone" ^{U.S.} injections lifetime were limit for safe health and no damage to brain and liver"). On 2-24-03 pain returned

in full to both shoulders. Wrote kite to PA Coombes as directed.

to response. On 5-8-03 sent in Another Health Care request

(3rd ~~2nd~~) stating "my pain in both shoulders is intolerable, Nightly, severe.

Disrupting sleep. Request MRI, X-Rays and surgery to fix the problem once and for all. Request C.R. p. rest or blood

for cholesterol and heart attack probability.

seen at DC II on 5-13-03 by PA Coombes. Another PA in attendance. (Coombes said I "changed my story as to pain in my shoulders." I said "I did not." He said "You said it was an impingement problem." I said "No, I said Dr. Gordon said it was. Then you first agreed, then changed your diagnosis". Coombes: "No, I didn't. I said it was (some medical term). I said "I am in pain. I have continually been in pain."

Other PA: "Are you A pain or in pain?" (Emphasis added) I said "I

Am a "pain" (quoted with finger gesture) because I AM in pain and NO ONE

is stopping it." PA Coombes began reading OFF the computer: "Impingement

problem." I said "Like you said I had." (why would he type it in as

such if he didn't Agree with such?) I then stated: "I have done the

physical therapy I have taken the cortizone shots and the pain has

not gone away for good, I need the surgery." Defendant Coombes said "Well,

you won't be getting that!" I asked "Why not?" Defendant Coombes "Because

surgery will not solve the problem" I then stated "I am in pain every night,

and I've done all that you have asked." Defendant Coombes became very angry

"Do you want this interview ended right now?" I said "No." Defendant Coombes

"This is what I will do I will put in for a U&C U exam of the shoulder.

They will tell you the same thing I'm ~~telling~~ telling you. I know that they

will because I talk to them every week and I'll notice none of

it." Thereafter so.

Then he switched to the neck problem. I said "I am still in

pain, headache" (top of base, ting or the will pointed to), a shooting

Pain?" Pg Coombs: "Well, yes. It's degeneratively, I find" well I want it fixed." Pg Coombs: "But nothing will stop degeneration. That's why it's a degenerative disk. Unless you had nerve compression. Then we could do something for you. I'd prescribe Ibuprofen."

Then he switched to my C.R.P. and cholesterol test.

Defendant Coombs: You want a C.R.P. test and cholesterol screening? ME: "Yes", Defendant Coombs: "Where did you hear about C.R.P. test?" ME: "On TV," Defendant Coombs: "Ahhh, TV, yes, well the C.R.P. test is only for those people who have a history and symptoms of heart attacks as a result of a plaque condition." ME: "Of a heart attack?" Coombs: "Yes". ME: "But wouldn't a test be a good precursor to see if a heart attack is imminent? (That's what the TV KSL News broadcast said. No history or "symptoms" NOT NECESSARY.)

Coombs: "No", "Let's check your cholesterol on the computer. In 1999 2001, blood tests showed 198, 204... hours. Well a high cholesterol result because the test could show a high cholesterol result which only reflects the meal and then there are different types of good and bad cholesterol, HDL. "But I will put you in for blood test. No food after 8 pm.

ME: "coffee, water fine. Blood test tomorrow 8 AM."

[Note: I complied fully with instructions and have never to date received test results nor medication despite several letters (letters) to Coombs and Med Dept. Defendant Coorden. Finally, Coombs looked at my right ankle. Coombs: when did you sprain ankle? where's pain at? ME: "Over a week ago, 10 days." (I pointed to it. Right here.) Coombs: "How did it happen?" ME: "Basketball, I fell on a guys foot, rolled it over." Coombs: (rolling my foot in his hand does several movements. Some are painful for me and I tell him so.) Coombs: "Well, one week is nothing. Most ankles it's 2-3 weeks. Some 4-6 weeks depending on where sprain is. Will do x-ray, but I don't think it will show anything."

X-Ray taken on 5-14-03. Noting to let me until 5-19-03 when I was sent to Germany at night. 2 ~~broken~~ Fractures in foot. Bleeding foot. Cast placed on right foot for 30 days. (Emphasis added.)

It is apparent that Defendant Coombs chose to disregard what I was saying on a purely personal basis, and his diagnosis was based on such personal conflict and not professional judgment. A blood pressure check was also taken but I was not permitted to know what it read, nor to date do I know.

Defendant (consistently) then asked "Are you going to take the injection?" I said "They don't solve the problem" He asked again "Are you going to take the injections or are you reversing?" I said "I am not going to be getting injected with something that only lasts for a few weeks." He asked again "Are you reversing? I will let you know." I said "I will have to see if the Court agrees with you on this."

Defendant at this P.A. (consistently) said the "appointment isn't over." He asked me "if it would be OKAY IF they MRI'd my shoulder?"

I said "sure, and why not the left too since it's more painful?"

P.A. (consistently) said "No there is no cause to MRI ~~left~~ ^{right} shoulder left one."

~~Note: I requested MRI of shoulder over a year ago.~~

Thomas Hermann and other inmates named in this litigation were under 60 years of age. And had similar shoulder problems and did receive surgery.

IS MY ~~ARM~~ ANY LESS IMPORTANT THAN MINE?

~~Other inmates known to me whom I've personally discussed their medical problems who received surgery were: Thomas Hermann (Right Shoulder), John Mooney (Elbow), ^{Right} Shane Strong (Shoulder), Ray Turton (right), Michael (Albert (Neck, shoulders), David Hirschler (Knees), Tim Miller (Knees) Maurice Lee (Knee)~~

All were similarly situated to me, in the same housing unit. None of these surgeries were life threatening.

All had Arthritic conditions, degicle problems, shoulder movement pain.

All are not Jewish, age of litigants. Tomale (Albert) is a Vietnam Veteran and was permitted to go to VA Hospital, which I had been continually denied, as a Veteran by the Defendants.

Defendant 30 for reasons for my denial of surgery on my neck and shoulder to relieve pain over and over again are: "I'm not John Galt" and I "don't have a \$50,000 dollar arm," I am "too young," "Budget" won't permit it, "we're not going to give you surgery," "not a life threatening situation," "or it came down here from Draper," "can't find a surgeon to do the surgery".

~~Note: P.A. (Albert) who deferred surgery was shortly let go/reigned thereafter and told he because he went "it was because he was told he was too concerned about inmates medical problems" and "that it was costing the prison too much money."~~

Defendant (Albert) initially delay surgery after other options exhausted, and now has apparently changed his mind.

The policy of U.S.P. is that prisoners similarly situated to myself are able to get free medical care while indigent at U.S.P., and if they do not return to prison I must pay for my medical care.

The policy of "Chronic Illness," injury was permitted waiver of medical fees to other ^{similarly situated} prisoners at U.S.P. but not to me even though I had a deemed "chronic" medical problem.

The continual charges for follow-up visits as directed by defendant Coombs is not in accordance with policy.

Overcharges for prescriptions not filled, or refilled at which caused loss of money from me for services and medications not rendered.

Other similarly situated prisoners at U.S.P. who were in pain for similar ailment as I received surgery on such areas while I have been continually denied. The denials of such surgery have been made on capricious, unconstitutional grounds - by Defendant who have acted in a deliberate and wanton desire to avoid solving the problem, permanent ~~relief~~ ^{exacerbation} of pain, continued payment for ~~a~~ medical treatment that has only temporarily stopped pain, egregious retaliatory conduct in denying me such permanent solutions while permitting other non-litigious inmates such permanent solutions, and Defendant Coombs and Stevens conspiring to deliberately deny surgical cure. As of this date still no MRI for right shoulder. "Tilt" as right shoulder not seen in previous x-rays - or diagnosis. As of 6-13-03 taken to University of Utah Medicine ~~not~~ Center for MRI on right shoulder. After 15-20 minutes, nurse ~~not~~ nurse asked me out said "You're (me) too big, Pictures didn't come to U. They'll have to find another way to test."

On or about 7-2-03, I was taken to OPEN for MRI on right shoulder. Results of this date, unknown. I was made aware that inmate Melvin Smith also had shoulder problem/pain and wrote he steroids were insufficient. And that he was being taken to UOFJ medical center for surgery on shoulder. - On 7-23-03 sent to Infirmary U.S.P. waited 10 minutes, after defendant Coombs started discussing my case with Defendant Carey, UOFJ Doctor and then he shut the door. ~~He did not~~ Held teleconfer conference. Defendant Carey first said I had "MRI on left shoulder, It was right shoulder. I asked about "tilt" on right shoulder? Defendant Carey said there "was no tilt." I said "yes, there was." ~~He~~ said

"No, it was a lesion," Then the Defendant (Carey) asked where the pain was, when I had MRI etc.? I showed her area of pain and explained that whenever I rolled on my side at night during sleep pain would be intense in the shoulder area. She said that I "was too young for surgery now." (Note: MELVIN SMITH, inmate previously referenced to be younger than I and received surgery on shoulder.) I then asked "Wouldn't surgery take away pain from shoulder?" She said "not necessarily," she asked if I had ever had an injury to right shoulder? I said "No". I asked what her name was. She said "Virginia (Carey)". I asked "Are you a doctor?" She said "Yes". I asked if the DOC? She said "Yes" I asked if she knew a Dr. Robert Burks? She said "Yes" I work with ~~him~~ him. I asked if she knew that he had a surgical procedure with which stopped pain in arthritic areas such as shoulder neck, knees etc.? She said "Yes." She then recommended physical therapy. (I've already had such). Defendant (Carey) ended telephone conference.

ON 8-5-03 I was sent again to Infirmary at U.S.P. I spoke with Jim Armstrong, physician therapist/referred MRI. He said that I had a "cyst" on right shoulder cuff. He also stated that the doctors thought "cyst" was benign. He also stated that I would begin to do exercise my rotator cuff on my right shoulder and get 12 weight plate to alleviate pain and strengthen cuff.

ON 9-22-03 inmate Joseph Perry # 18740 told me that the prison had authorized surgery on his left shoulder for pain that was causing him to. Inmate Joseph Perry # 18740 is 42 years old.

ON or about October 17, 2003 U.S.P. inmate Jon Chadwick told me he had received surgery on his shoulder as an inmate at Utah State Prison in 2001. That said surgery was authorized by the Utah State Prison Medical Dept. staff. He was 34 years old at the time.

On November 17, 2003 U.S.P. inmate Terrence Pierce # 22077 told me he was authorized on November 17, 2003 to receive surgery on his finger which was dislocated in a touch football game in the the Chaparral yard of the Utah State Prison. Inmate Terrence Pierce # 22077 is 640 years of age.

On or about February 17, 2004 inmate (1) ELON SMITH # 19523 received surgery on his left hand. He had

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in all his physical alterations while in prison. He had not worked at any job or other job which would have caused and continue, Inmate year is approximate 32 years old. He has a "White Bricks" tattoo on his arm, signifying Army Gary Pfeiffer, (white feather). In April, 2004 inmate Dan Evans received screening on his back; in August 2004 per instruction from staff, I was seen by defendant (coroners) and again found me pain in shoulder, neck, and my arthritis he would do for me,
Abdell Evans

c. (1) Count III: 14th Amendment to U.S. Constitution

Art 2 sec 1,3,7 of Utah State Constitution

(2) Supporting Facts: (please see attached paper and documents)

In August 2004 x-rays were taken of both shoulders, but not neck. A defendant (b) (2) not named. X-rays revealed per Dr. Noble (X-ray technician) a "growth on my left shoulder".

D. INJURY

1. How have you been injured by the actions of the defendant(s)?

I have suffered continually, Nightly pain in my left shoulder for over a 2 year period of time. I have suffered continual, nighty pain in my right shoulder for over a years period of time. I have suffered continual daily pain in my neck for over a 3+ year period of time. I have lost sleep Nightly because of pain, which wakes me up. I have had continual headaches at (temples since 1988) of sever for over 3+ years. I have been refused corrective surgery on the neck, after it was initially okayed which would have stopped the pain and headaches. I have been treated differently than similarly situated inmates with strong area problems who did receive surgery. I have been injected with cortizone shots which cause brain and liver damage. I have been denied benefits due me as a U.S. Veteran. Monetary payment of \$400 each time physician denied surgery and ~~despite~~ contrary to other inmates who did not have to pay for their medical care.

E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action or otherwise relate to the conditions of your imprisonment? YES / NO If your answer is "YES," describe each lawsuit. (If there is more than one lawsuit, describe additional lawsuits on additional separate pages, using the same outline.)

a. Parties to previous lawsuit:

	Plaintiff(s): _____
	Defendant(s): _____
b.	Name of court and case or docket number: _____
c.	Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____
d.	Issues raised: _____ _____
e.	When did you file the lawsuit? _____ Date _____ Month _____ Year _____
f.	When was it (will it be) decided? _____
2.	Have you previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C? YES <input checked="" type="checkbox"/> NO _____. If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought. <u>GOVERNS ALL 3 LEVELS, 3 separate times</u> <u>in last 3 years. SAME ISSUE. Administrative Remedies</u> <u>NOT granted. *</u> _____ _____ _____

F. REQUEST FOR RELIEF

1. I believe that I am entitled to the following relief:

1. DECLARATORY RELIEF THAT DEFENDANTS VIOLATED MY CONSTITUTIONAL RIGHTS AND PROTECTIONS, AND THAT NON-PAYMENT OF MEDICAL AND FEES BY PARTICIPATING PHYSICIANS WHO DO NOT RETURN TO PRACTICE AS UNCONSTITUTIONAL.
2. TRIAL BY JURY.
3. THAT PUNITIVE RELIEF BE ORDERED.
4. INSURANCE RELIEF INCLUDING BUT NOT LIMITED TO: MRI OF MY SHOULDER, NECK, AND SKULL CATSCAN BY RENOWNED VETERANS ADMINISTRATOR/NOT/DOCTOR (S)

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint, and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C. §1621.

Executed at Utah State Prison on April 5 2003
(Location) (Date)

Signature

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